

HOUSE JOURNAL

SEVENTY-EIGHTH LEGISLATURE, SECOND CALLED SESSION

PROCEEDINGS

FOURTH DAY — FRIDAY, AUGUST 8, 2003

The house met at 2 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 26).

Present — Mr. Speaker; Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Lewis; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Olivo; Paxton; Peña; Phillips; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wolens; Wong; Woolley; Zedler.

Absent, Excused — Davis, Y.; Giddings; Goodman; Howard; Laney; Luna; Noriega; Oliveira; Wohlgemuth.

Absent — Keffer, J.; Pickett; Thompson.

The invocation was offered by Steve Hopper, pastor of Christian Adult Education, First Evangelical Free Church, Austin, as follows:

Almighty, loving God, we read in your word that you desire, "...that requests, prayers, intercession, and thanksgiving be made for everyone—for kings and all those in authority, that we may live peaceful and quiet lives in all godliness and holiness. This is good, and pleases God our Savior, who wants all men to be saved and to come to a knowledge of the truth." (1 Timothy 2:1-4)

We want to stop and give thanks. Lord, we thank you for the gift of this day. For your mercies that are new every morning. Great is your faithfulness. Thank you for your provisions for this day.

Thank you for a wonderful, blessed, free nation in which to live, and for those who have given their lives so that we may enjoy these freedoms today.

We thank you for this state, for the men and women of deep character, whose values and convictions and sacrifice have made it great. We thank you for the rich heritage of people that have gone before us, many who passed through these hallways, for those who invested their lives for the good of the people of this state.

While you are a sovereign God, you have given us the institution of government, giving some extra responsibility to lead, manage, and oversee your creation.

For those entrusted with this sacred stewardship, we want to intercede. We pray for your blessing on this chamber today, that each person—representatives, staff members, those in leadership as well as those working behind the scenes, would serve as agents for good on your behalf.

We ask your protection over them, their families, their businesses, their endeavors they have left behind.

As they deliberate difficult decisions, we ask for discernment, for guidance, for wisdom—that what is accomplished here would bring about what is good, and would be pleasing in your eyes.

By your grace, we pray that you would pour out your blessing and anointing on this assembly. In your name we pray. Amen.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for today because of important business in the district:

Giddings on motion of Lewis.

Goodman on motion of Swinford.

Howard on motion of Geren.

Oliveira on motion of McReynolds.

The following members were granted leaves of absence for today because of important business:

Y. Davis on motion of Dukes.

Laney on motion of Chisum.

Noriega on motion of Lewis.

The following member was granted leave of absence for today because of important family business:

Wohlgemuth on motion of Stick.

The following member was granted leave of absence for today because of illness:

Luna on motion of Dukes.

(Edwards in the chair)

HR 69 - ADOPTED
(by Flynn)

Representative Flynn moved to suspend all necessary rules to take up and consider at this time **HR 69**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 69, Honoring Charles and Wanda Gandy of Edom on their 50th wedding anniversary.

HR 69 was adopted without objection.

HR 68 - ADOPTED
(by B. Brown)

Representative B. Brown moved to suspend all necessary rules to take up and consider at this time **HR 68**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 68, Honoring the Forney Independent School District board for being named Region X's School Board of the Year.

HR 68 was adopted without objection.

(Pickett now present)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Bailey on motion of Dunnam.

HR 16 - ADOPTED
(by Wise)

Representative Wise moved to suspend all necessary rules to take up and consider at this time **HR 16**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 16, Honoring Mary Frances Noell for being named the 2003 Young Naturalist of the Year by the Weslaco Rotary Club.

HR 16 was read and was adopted without objection.

On motion of Representative Flynn, the names of all the members of the house were added to **HR 16** as signers thereof.

INTRODUCTION OF GUEST

The chair recognized Representative Wise who introduced Mary Frances Noell.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for today because of important business:

Thompson on motion of Chisum.

The following member was granted leave of absence for the remainder of today because of important business in the district:

Coleman on motion of Hochberg.

HR 29 - ADOPTED

(by Wise)

Representative Wise moved to suspend all necessary rules to take up and consider at this time **HR 29**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 29, Congratulating the Weslaco Chamber of Commerce on earning the Texas Business Association's Best New Program Award.

HR 29 was read and was adopted without objection.

On motion of Representative Flynn, the names of all the members of the house were added to **HR 29** as signers thereof.

HR 63 - ADOPTED

(by Isett)

Representative Isett moved to suspend all necessary rules to take up and consider at this time **HR 63**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 63, Honoring Kenneth Bailey Hooper on his retirement from the State Securities Board.

HR 63 was adopted without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Smithee on motion of Chisum.

HR 64 - ADOPTED

(by Coleman)

Representative Hochberg moved to suspend all necessary rules to take up and consider at this time **HR 64**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 64, In memory of Regena Vetene Thomas of Houston.

HR 64 was unanimously adopted by a rising vote.

HR 65 - ADOPTED
(by Coleman)

Representative Hochberg moved to suspend all necessary rules to take up and consider at this time **HR 65**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 65, Honoring the life of Barbara Gray of Lake Conroe.

HR 65 was unanimously adopted by a rising vote.

HR 70 - ADOPTED
(by Pitts)

Representative Pitts moved to suspend all necessary rules to take up and consider at this time **HR 70**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 70, Congratulating Carolyn Purcell on her retirement as executive director of the Department of Information Resources.

HR 70 was adopted without objection.

On motion of Representative Hochberg, the names of all the members of the house were added to **HR 70** as signers thereof.

HR 71 - ADOPTED
(by Casteel)

Representative Casteel moved to suspend all necessary rules to take up and consider at this time **HR 71**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 71, In memory of Ruth Margaret "Sue" Blackwell Bock of New Braunfels.

HR 71 was unanimously adopted by a rising vote.

HR 72 - ADOPTED
(by Casteel)

Representative Casteel moved to suspend all necessary rules to take up and consider at this time **HR 72**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 72, Recognizing August 30, 2003, as Celebrate Bandera Day in Texas.

HR 72 was adopted without objection.

HR 73 - ADOPTED

(by Mabry)

Representative Mabry moved to suspend all necessary rules to take up and consider at this time **HR 73**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 73, Congratulating David Brownfield Edens and Julie Clare Heaton on their impending marriage.

HR 73 was adopted without objection.

HR 74 - ADOPTED

(by Mabry)

Representative Mabry moved to suspend all necessary rules to take up and consider at this time **HR 74**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 74, Honoring Ken Schroeder of China Spring for his induction into the Texas Lions Hall of Fame.

HR 74 was adopted without objection.

HR 56 - ADOPTED

(by Gattis)

Representative Gattis moved to suspend all necessary rules to take up and consider at this time **HR 56**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 56, Recognizing October 18, 2003, as Travis/Williamson County Hypertension Awareness Day.

HR 56 was adopted without objection.

HR 57 - ADOPTED

(by Gattis)

Representative Gattis moved to suspend all necessary rules to take up and consider at this time **HR 57**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 57, Congratulating Patricia Faye Knowles on the dedication of a school in the Leander ISD in her name.

HR 57 was adopted without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Burnam on motion of Rodriguez.

HR 77 - ADOPTED (by Farabee)

Representative Hopson moved to suspend all necessary rules to take up and consider at this time **HR 77**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 77, Honoring Ken Telg as "Wichitan of the Year."

HR 77 was adopted without objection.

HR 54 - ADOPTED (by Quintanilla)

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HR 54**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 54, Honoring Mateo Delgado of Albuquerque, New Mexico, for his work as a legislative intern and for his accomplishments.

HR 54 was adopted without objection.

HR 55 - ADOPTED (by Quintanilla)

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HR 55**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 55, Congratulating Dr. Josefina Tinajero on her appointment as dean of the College of Education at The University of Texas at El Paso.

HR 55 was adopted without objection.

HR 66 - ADOPTED (by Uresti)

Representative Uresti moved to suspend all necessary rules to take up and consider at this time **HR 66**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 66, Welcoming Toyota Motor Corporation to Texas.

HR 66 was adopted without objection.

HR 67 - ADOPTED

(by Uresti)

Representative Uresti moved to suspend all necessary rules to take up and consider at this time **HR 67**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 67, Honoring Hector V. Barreto, national administrator of the U.S. Small Business Administration.

HR 67 was adopted without objection.

HR 76 - ADOPTED

(by Dutton)

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 76**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 76, Honoring Pastor James Raynard Miller of Houston for his dedication to his church and his faith.

HR 76 was adopted without objection.

HR 75 - ADOPTED

(by Krusee)

Representative Krusee moved to suspend all necessary rules to take up and consider at this time **HR 75**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 75, In memory of Ann Marie Davis-Meyer of Round Rock.

HR 75 was unanimously adopted by a rising vote.

HR 79 - ADOPTED

(by Alonzo)

Representative Alonzo moved to suspend all necessary rules to take up and consider at this time **HR 79**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 79, Commemorating the 1969 Crystal City Student Walkout.

HR 79 was adopted without objection.

HR 78 - ADOPTED

(by Heflin)

Representative Heflin moved to suspend all necessary rules to take up and consider at this time **HR 78**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 78, Honoring Bich Ngoc of Houston, founder of the Miss Vietnamese Free World Beauty Pageant, for her civic and cultural contributions.

HR 78 was adopted without objection.

HR 3 - ADOPTED

(by Griggs)

Representative Kolkhorst moved to suspend all necessary rules to take up and consider at this time **HR 3**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 3, Congratulating Karen Holcombe of Hurst on receiving an honorable mention in the 2003 Outstanding Teaching of the Humanities Awards.

HR 3 was adopted without objection.

HR 59 - ADOPTED

(by Truitt)

Representative Kolkhorst moved to suspend all necessary rules to take up and consider at this time **HR 59**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 59, Congratulating the Southlake Carroll High School football team on winning the 2002 UIL Class 5A, Division II, state championship.

HR 59 was adopted without objection.

HR 60 - ADOPTED

(by Truitt)

Representative Kolkhorst moved to suspend all necessary rules to take up and consider at this time **HR 60**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 60, Honoring Morgan Champlin of Colleyville for earning a 2003 Prudential Spirit of Community Award.

HR 60 was adopted without objection.

HR 61 - ADOPTED
(by Truitt)

Representative Kolkhorst moved to suspend all necessary rules to take up and consider at this time **HR 61**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 61, In memory of Hardy Sanders of Colleyville.

HR 61 was unanimously adopted by a rising vote.

HR 62 - ADOPTED
(by Truitt)

Representative Kolkhorst moved to suspend all necessary rules to take up and consider at this time **HR 62**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 62, In memory of Brandon Fails of Grapevine.

HR 62 was unanimously adopted by a rising vote.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business:

Escobar on motion of Guillen.

Raymond on motion of Guillen.

(Speaker in the chair)

HCR 7 - ADOPTED
(by Edwards)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HCR 7**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 7

WHEREAS, Section 17, Article III, Texas Constitution, provides that neither house of the legislature may adjourn for more than three days without the consent of the other house; now, therefore be it

RESOLVED, by the 78th Legislature of the State of Texas, 1st Called Session, That each house grant the other permission to adjourn for more than three days during the period beginning on Friday, August 8, 2003, and ending on Wednesday, August 13, 2003.

HCR 7 was adopted without objection.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

**HB 3 ON SECOND READING
(by Swinford)**

HB 3, A bill to be entitled An Act relating to the compilation and distribution of the state budget by the governor.

HB 3 was read second time on August 5 and was postponed until 2 p.m. today.

Representative Swinford moved to postpone consideration of **HB 3** until the end of today's calendar.

The motion prevailed without objection.

**MAJOR STATE CALENDAR
HOUSE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**HB 4 ON THIRD READING
(by Swinford)**

HB 4, A bill to be entitled An Act relating to unclaimed property.

HB 4 was passed.

**HB 7 ON THIRD READING
(by Swinford)**

HB 7, A bill to be entitled An Act relating to the abandonment of proceeds distributable on reorganization of an insurance company.

HB 7 was passed.

**HB 8 ON THIRD READING
(by Swinford)**

HB 8, A bill to be entitled An Act relating to meetings of the Legislative Budget Board conducted through the use of certain telecommunication devices.

HB 8 was passed.

HB 9 ON THIRD READING**(by Swinford)**

HB 9, A bill to be entitled An Act relating to the conservation of energy and water by state agencies.

Representative Swinford moved to postpone consideration of **HB 9** until the end of today's third reading calendar.

The motion prevailed without objection.

HB 11 ON THIRD READING**(by Swinford)**

HB 11, A bill to be entitled An Act relating to designating the presiding officer of the governing body of certain state agencies.

Representative Swinford moved to postpone consideration of **HB 11** until the end of today's third reading calendar.

The motion prevailed without objection.

HB 13 ON THIRD READING**(by Swinford)**

HB 13, A bill to be entitled An Act relating to certain reports and permits of the Texas Commission on Environmental Quality.

HB 13 was passed.

HB 14 ON THIRD READING**(by Swinford)**

HB 14, A bill to be entitled An Act relating to the abolition of the Texas Commission on Private Security and the transfer of its functions to the Department of Public Safety of the State of Texas.

HB 14 was passed.

HB 15 ON THIRD READING**(by Swinford)**

HB 15, A bill to be entitled An Act relating to the oversight of regional planning commissions by the governor and the state auditor.

HB 15 was passed.

HB 16 ON THIRD READING**(by Swinford)**

HB 16, A bill to be entitled An Act relating to the qualifications of the commissioner of insurance.

A record vote was requested.

The vote of the house was taken on passage of **HB 16** and the vote resulted as follows (Record 27): 73 Yeas, 20 Nays, 1 Present, not voting.

Yeas — Baxter; Berman; Bohac; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chavez; Chisum; Christian; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Delisi; Denny; Dutton; Edwards; Eissler; Elkins; Flynn; Gattis; Geren; Griggs; Guillen; Haggerty; Hamilton; Hamric; Harper-Brown;

Heflin; Hegar; Hochberg; Homer; Hope; Hopson; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Kolkhorst; Krusee; Lewis; Mabry; Madden; McClendon; McReynolds; Menendez; Mercer; Morrison; Nixon; Paxton; Phillips; Pickett; Pitts; Reyna; Rose; Seaman; Smith, W.; Solomons; Stick; Swinford; Talton; Van Arsdale; West; Wong; Zedler.

Nays — Alonzo; Canales; Castro; Deshotel; Dukes; Dunnam; Ellis; Farabee; Gallego; Jones, J.; McCall; Merritt; Naishtat; Olivo; Ritter; Rodriguez; Solis; Telford; Uresti; Wise.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Burnam; Coleman; Davis, Y.; Escobar; Giddings; Goodman; Howard; Laney; Luna; Noriega; Oliveira; Raymond; Smithee; Thompson; Wohlgemuth.

Absent — Allen; Bonnen; Cook, B.; Dawson; Driver; Eiland; Farrar; Flores; Garza; Goolsby; Grusendorf; Gutierrez; Hardcastle; Hartnett; Hilderbran; Hill; Hodge; Keffer, B.; Keffer, J.; King; Kuempel; Laubenberg; Marchant; Martinez Fischer; Miller; Moreno, J.; Moreno, P.; Mowery; Peña; Puente; Quintanilla; Riddle; Smith, T.; Taylor; Truitt; Turner; Villarreal; Wilson; Wolens; Woolley.

The speaker announced that the outcome of passage of **HB 16** could not be determined because the above vote revealed that a quorum was not present.

STATEMENTS OF VOTE

When Record No. 27 was taken, my vote failed to register. I would have voted yes.

Allen

When Record No. 27 was taken, I was temporarily out of the house chamber. I would have voted yes.

Hartnett

POINT OF ORDER

Representative Mabry raised a point of order under Rule 5, Section 5 of the House Rules on the grounds that Record Vote No. 27 showed a quorum was not present.

The speaker sustained the point of order.

ADJOURNMENT

Representative Edwards moved that the house adjourn until 11 a.m. Wednesday, August 13.

The motion prevailed without objection.

The house accordingly, at 3:09 p.m., adjourned until 11 a.m. Wednesday, August 13.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 45 (By Chavez), Relating to sanitation facilities at a temporary place of employment.

To Public Health.

HB 46 (By Chavez), Relating to exemptions from the sales tax.

To Ways and Means.

HB 47 (By Swinford), Relating to the shipment of wine by a winery in this state.

To Economic Development.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

August 5

Government Reform - **HB 3, HB 12, HB 23**